IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7748 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.6394, 7144/2007 Dated 20/11/2007
CRMP.5572/2007 of J.M.F.C.-I, PUNALUR
CRIME NO.208/CR/KLM/00 OF CBCID, ALAPPUZHA WHICH IS ORIGINALLY REGISTERED AS CRIME NO.99/99 BY THE EXCISE INSPECTOR, PATHANAPURAM.

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PETITIONER :

Y.GEORGE, S/O.YOHANNAN, AGED 63 YEARS,
THOTTAKKATTU HOUSE, THOTTAKKATTUKARA P.O.,
ALUVA-683 108.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:

STATE OF KERALA REP. BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID,
ALAPPUZHA.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, ALONG WITH BA NO. 7756 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos. 7748 & 7756 of 2007

Dated this the 17th day of December, 2007

ORDER

Applications for regular bail. The common petitioner is the accused in two crimes registered under the Kerala Abkari Act. Those crimes are now being investigated by the C.B. C.I.D. as Crime Nos.208 & 209/CR/KLM/2000 of the C.B. C.I.D., Alappuzha.

2. The crux of the allegations is that in the month of June, 1999, two instances of rectified spirit brought into Kerala on the basis of transit permits not reaching the destination were detected. Each consignment was of 24000 litres of rectified spirit. These consignments had entered into Kerala on 3/6/99 and 18/6/99 for the purpose of passing through Kerala to its destination at Goa. It was revealed that the articles were delivered in the premises of a distillery at Aluva of which the petitioner is admittedly the licensee. The consignments were sold/transferred to some other persons in

Kerala and it did not reach the destination in Goa. A crime has been registered. Investigation is in progress. The petitioner was not arrested. The petitioner came to this Court with applications for anticipatory bail and this Court by order dated 20/11/07 in B.A. Nos.6394 & 7144/07 dismissed the applications with the observation that the petitioner must surrender before the learned Magistrate or the Investigating Officer. Later, the petitioner has so surrendered on 30/11/07. He continues in custody from that date in both the crimes.

3. The learned counsel for the petitioner submits that the petitioner could be treated as only an absentee licensee at the relevant time. The rights in respect of the distillery had already been transferred; but the licence which stood in the name of the petitioner could not be transferred formally. Therefore he had maintained a token minimal interest in the factory on paper having retained with him 10% of shares in the partnership business. All the transactions were carried on by others, though the petitioner continued to be the licensee as per the licence issued. The petitioner was taken into custody from 30/11/07.

No purpose will be served by the continued detention of the petitioner. The petitioner may, in these circumstances, be enlarged on bail, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor, after taking specific instructions on the crucial aspect as to whether the petitioner was holding only 10% interest in the partnership at the relevant time, confirms that it was so. The learned Public Prosecutor submits that, in these circumstances, the State does not want to oppose the application for regular bail filed by the petitioner.

5. In the circumstances of this case, I am satisfied that the petitioner's prayer for regular bail in these crimes can be allowed, subject to appropriate terms and conditions. In the absence of opposition from the learned Public Prosecutor, it is not necessary for me to advert to the facts in any greater detail in this order.

6. **In the result:**

(a) The applications are allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.2,00,000/- (Rupees two lakhs only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and thereafter as and when directed by the Investigating Officer in writing to do so.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge